

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

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Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, 60118; and 49 CFR 1.53.

[Amdt. 199-13, 61 FR 18512, Apr. 26, 1996; Amdt. 199-16, 61 FR 65364, Dec. 12, 1996]

Source: 53 FR 47096, Nov. 21, 1988, unless otherwise noted.

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**Subpart A–Drug Testing**

**§199.1 Scope and compliance.**

(a) This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test employees for the presence of prohibited drugs and provide an employee assistance program. However, this subpart does not apply to operators of "master meter systems" as defined in §191.3 of this chapter or to liquefied petroleum gas (LPG) operators.

(b) Operators with more than 50 employees subject to drug testing under this part need not comply with this part until April 20, 1990. Operators with 50 or fewer employees subject to drug testing under this part need not comply with this part until August 21, 1990.

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(c) This part shall not apply to any person for whom compliance with this part would violate the domestic laws or policies of another country.

(d) This part applies to pipeline operators, only with respect to pipeline employees located within the territory of the United States, including those employees located within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

[Amdt. 199-1, 54 FR 14923, Apr. 13, 1989, as amended by Amdt. 199-3, 54 FR 53290, Dec. 27, 1989; Amdt. 199-5, 56 FR 18987, Apr. 24, 1991; Amdt. 199-7, 57 FR 31280, July 14, 1992; Amdt. 199-8, 58 FR 68260, Dec. 23, 1993; Amdt. 199-16, 62 FR 67293, Dec. 24, 1997]

#### §199.3 Definitions.

As used in this part—

***Accident*** means an incident reportable under Part 191 of this chapter involving gas pipeline facilities or LNG facilities, or an accident reportable under Part 195 of this chapter involving hazardous liquid pipeline facilities.

***Administrator*** means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

***Covered employee*** means a person who performs, on a pipeline or LNG facility, an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter. This does not include clerical, truck driving, accounting, or

other functions not subject to part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

***Covered function*** means an operations, maintenance, or emergency-response function conducted on the pipeline or LNG facility that is regulated by part 192, 193, or 195.

***DOT Procedures*** means the "Procedures for Transportation Workplace Drug Testing Programs" published by the Office of the Secretary of Transportation in part 40 of this title.

***Fail a drug test*** means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

***Operator*** means a person who owns or operates pipeline facilities subject to part 192, 193, or 195 of this chapter.

***Pass a drug test*** means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

***Prohibited drug*** means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801.812 (1981 & 1987 Cum.P.P.): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). In addition, for the purposes of reasonable cause testing, "prohibited drug" includes any substance in Schedule I or II if an operator has obtained prior approval from RSPA, pursuant to the DOT Procedures in 49 CFR

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Part 40, to test for such substance, and if the Department of Health and Human Services has established an approved testing protocol and positive threshold for such substance.

**Positive rate** means the number of positive results for random drug tests conducted under this subpart plus the number of refusals of random, tests required by this subpart, divided by the total number of random drug tests conducted under this subpart plus the number of refusals of random test required by this subpart.

**Refuse to submit** means that a covered employee fails to provide a urine sample as required by 49 CFR Part 40, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement to be tested in accordance with the provisions of this subpart, or engages in conduct that clearly obstructs the testing process.

**State agency** means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 *et seq.*)

[Amdt 199-2, 54 FR 51850, Dec. 18, 1989; Amdt. 199-11, 59 FR 62227, Dec. 2, 1994; Amdt. 199-13, 61 FR 18512, Apr. 26, 1996; Amdt. 199-18, 63 FR 12998, Mar. 17, 1998]

### **§199.5 DOT Procedures.**

The anti-drug program required by this part must be conducted according to the requirements of this part and the DOT Procedures. In the event of conflict, the provisions of this part prevail. Terms and

concepts used in this part have the same meaning as in the DOT Procedures.

### **§199.7 Anti-drug plan.**

(a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain—

(1) Methods and procedures for compliance with all the requirements of this part, including the employee assistance program;

(2) The name and address of each laboratory that analyzes the specimens collected for drug testing; and

(3) The name and address of the operator's Medical Review Officer, and Substance Abuse Professional; and,

(4) Procedures for notifying employees of the coverage and provisions of the plan.

(b) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 *et seq.*) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

[Amdt. 199-2, 54 FR 51850, Dec. 18, 1989; Amdt. 199-4, 56 FR 31091, July 9, 1991; Amdt. 199-6, 56 FR 41077, Aug. 19, 1991; Amdt. 199-13, 61 FR 18512, Apr. 26, 1996; Amdt. 199-18A, 63 FR 36862, July 8, 1998]

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**§199.9 Use of persons who fail or refuse a drug test.**

(a) An operator may not knowingly use as an employee any person who—

(1) Fails a drug test required by this part and the medical review officer makes a determination under §199.15(d)(2); or

(2) Refuses to take a drug test required by this part.

(b) Paragraph (a)(1) of this section does not apply to a person who has—

(1) Passed a drug test under DOT Procedures;

(2) Been recommended by the medical review officer for return-to-duty in accordance with §199.15(c); and,

(3) Not failed a drug test required by this part after returning to duty.

[Amdt. 199-2, 54 FR 51850, Dec. 18, 1989.]

**§199.11 Drug tests required.**

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

(a) *PRE-EMPLOYMENT TESTING.* No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this part.

(b) *POST-ACCIDENT TESTING.* As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an employee is injured, unconscious, or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. An operator may decide not to

test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

(c) *RANDOM TESTING.*

(1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

(2) The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this subpart. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the Administrator will publish in the Federal Register the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.

(3) When the minimum annual percentage rate for random drug testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of 199.25 for two consecutive calendar years indicate that the reported positive rate is less than 1.0 percent.

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(4) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of 199.25 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.

(5) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(6) The operator shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the Administrator. If the operator conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual operator or may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under this subpart or any DOT drug testing rule.

(7) Each operator shall ensure that random drug tests conducted under this subpart are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

(8) If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for the same operator, the employee

shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

(9) If an operator is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the operator may—

(i) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

(ii) Randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the operator is subject.

(d) *TESTING BASED ON REASONABLE CAUSE.* Each operator shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. However, in the case of operators with 50 or fewer employees subject to testing under this part, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

(e) *RETURN TO DUTY TESTING.* A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has been evaluated face-to-face by a SAP, has properly followed any prescribed assistance, has passed a return-to-duty drug

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test administered under this part, and the SAP has determined that the employee may return to duty.

(f) *FOLLOW-UP TESTING.* A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

[Amdt. 199-2, 54 FR 51850, Dec. 18, 1989; Amdt. 199-11, 59 FR 62227, Dec. 2, 1994; Amdt. 199-18, 63 FR 12998, Mar. 17, 1998; Amdt. 199-18A, 63 FR 36862, July 8, 1998]

**§199.13 Drug testing laboratory.**

(a) Each operator shall use for the drug testing required by this part only drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures.

(b) The drug testing laboratory must permit—

(1) Inspections by the operator before the laboratory is awarded a testing contract; and

(2) Unannounced inspections, including examination of records, at any time, by the operator, the Administrator, and if the operator is subject to state agency jurisdiction, a representative of that state agency.

**§199.15 Review of drug testing results.**

(a) *MRO APPOINTMENT.* Each operator shall designate or appoint a medical review officer (MRO). If an operator does not have a qualified individual on staff to serve as MRO, the operator may contract for the provision of MRO services as part of its anti-drug program.

(b) *MRO QUALIFICATIONS.* The MRO must be a licensed physician with knowledge of drug abuse disorders.

(c) *MRO DUTIES.* The MRO shall perform the following functions for the operator:

(1) Review the results of drug testing before they are reported to the operator.

(2) Review and interpret each confirmed positive test result as follows to determine if there is an alternative medical explanation for the confirmed positive test result:

(i) Conduct a medical interview with the individual tested.

(ii) Review the individual's medical history and any relevant biomedical factors.

(iii) Review all medical records made available by the individual tested to determine if a confirmed positive test resulted from legally prescribed medication.

(iv) If necessary, require that the original specimen be reanalyzed to determine the accuracy of the reported test result.

(v) Verify that the laboratory report and assessment are correct.

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(3) Ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

(d) *MRO DETERMINATIONS.* The following rules govern MRO determinations:

(1) If the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.

(2) If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer:

(i) The individual tested to a personnel or administrative office for further proceedings in accordance with the operator's anti-drug plan; and

(ii) For evaluation by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with drug misuse.

(3) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

(e) Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

(f) The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

(1) A public agency, such as a State, county, or municipality;

(2) The operator or a person under contract to provide treatment for drug problems on behalf of the operator;

(3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or

(4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

[Amdt. 199-2, 54 FR 51850, Dec. 18, 1989;  
Amdt. 199-18, 63 FR 12998, Mar. 17, 1998;  
Amdt. 199-18A, 63 FR 36862, July 8, 1998]

**§199.17 Retention of sample and retesting.**

(a) Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the Administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If,

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within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

(b) If the MRO determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory or by a second laboratory that is certified by the Department of Health and Human Services. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative.

(c) If the employee specifies retesting by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.

(d) Since some analyses may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results.

[53 FR 47096, Nov. 21, 1988, as amended by Amdt. 199-17, 63 FR 7721, Feb. 17, 1998]

**§199.19 Employee assistance program.**

(a) Each operator shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of the operator, the EAP may include an opportunity for employee rehabilitation.

(b) Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the employer's policy regarding the use of prohibited drugs.

(c) Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

**§199.21 Contractor employees.**

With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this part be carried out by the contractor provided:

(a) The operator remains responsible for ensuring that the requirements of this part are complied with; and

(b) The contractor allows access to property and records by the operator, the



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Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this part.

**§199.23 Recordkeeping.**

(a) Each operator shall keep the following records for the periods specified and permit access to the records as provided by paragraph (b) of this section:

(1) Records that demonstrate the collection process conforms to this part must be kept for at least 3 years.

(2) Records of employee drug test results that show employees who had a positive test, and the type of test (e.g., post-accident), and records that demonstrate rehabilitation, if any, must be kept for at least 5 years, and include the following information:

(i) The function performed by each employee who had a positive drug test.

(ii) The prohibited drug(s) that were used by an employee who had a positive drug test.

(iii) The disposition of each employee who had a positive drug test or refused a drug test (e.g., termination, rehabilitation, removed from covered function, other).

(3) Records of employee drug test results that show employees passed a drug test must be kept for at least 1 year.

(4) A record of the number of employees tested, by type of test (e.g., post-accident), must be kept for at least 5 years.

(5) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.

(b) Information regarding an individual's drug testing results or rehabilitation may be released only upon the written consent of the individual, except that such information must be released regardless of consent to the

Administrator or the representative of a state agency upon request as part of an accident investigation. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of a state agency upon request.

[Amdt. 199-8, 58 FR 68260, Dec. 23, 1993]

**§199.25 Reporting of anti-drug testing results.**

(a) Each large operator (having more than 50 covered employees) shall submit an annual management information system (MIS) report to RSPA of its anti-drug testing results in the form and manner prescribed by the Administrator, not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to RSPA.

(b) Each report, required under this section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, Room 2335, 400 Seventh Street, SW., Washington, DC 20590.

(c) Each report shall be submitted in the form and manner prescribed by the Administrator. No other form, including another DOT Operating Administration's MIS form is acceptable for submission to RSPA.

(d) Each report shall be signed by the Operator's anti-drug manager or designated representative. RSPA will allow the operator the option of sending the report on

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the computer disk provided by RSPA. If this option is used, a signature page attesting to the validity of the information on the computer disk must be sent to the address in paragraph (b) of this section.

(e) Each operator's report with verified positive test results or refusals to test shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of positive test results, verified by a Medical Review Officer (MRO), by type of test and type of drug.

(5) Number of employee action(s) taken following verified positive(s), by type of action(s).

(6) Number of negative tests reported by an MRO, by type of test.

(7) Number of persons denied a position as a covered employee following a verified positive drug test.

(8) Number of covered employees, returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule.

(9) Number of covered employees with tests verified positive by an MRO for multiple drugs.

(10) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal.

(11) Number of supervisors who have received required initial training during the reporting period.

(f) Each operator's report with only negative test results shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of negative tests reported by an MRO, by type of test.

(5) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal.

(6) Number of supervisors who have received required initial training during the reporting period.

[Amdt. 199-8, 58 FR 68261, Dec. 23, 1993;  
Amdt. 199-9, 59 FR 7430, Feb. 15, 1994;  
Amdt. 199-15, 61 FR 65364, Dec. 12, 1996]

**Subpart B—Alcohol Misuse Prevention Program**

**§199.200 Purpose.**

The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities subject to part 192, 193, or 195 of this chapter.

**§199.201 Applicability.**

This subpart applies to gas, hazardous liquid and carbon dioxide pipeline operators and liquefied natural gas operators subject to part 192, 193, or 195 of this chapter. However, this subpart does not apply to operators of master meter systems defined in §191.3 or liquefied petroleum gas (LPG)

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operators as discussed in §192.11 of this chapter.

#### §199.202 Alcohol misuse plan.

Each operator shall maintain and follow a written alcohol misuse plan that conforms to the requirements of this subpart and the DOT procedures in Part 40 of this title. The plan shall contain methods and procedures for compliance with all the requirements of this subpart, including required testing, recordkeeping, reporting, education and training elements.

#### §199.203 Alcohol testing procedures.

Each operator shall ensure that all alcohol testing conducted under this subpart complies with the procedures set forth in Part 40 of this title. The provisions of 49 CFR part 40 that address alcohol testing are made applicable to operators by this subpart.

#### §199.205 Definitions.

As used in this subpart:

***Accident*** means an incident reportable under part 191 of this chapter involving gas pipeline facilities or LNG facilities, or an accident reportable under part 195 of this chapter involving hazardous liquid or carbon dioxide pipeline facilities.

***Administrator*** means the Administrator of the Research and Special Programs Administration (RSPA), or any person who has been delegated authority in the matter concerned.

***Alcohol*** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low

molecular weight alcohols including methyl or isopropyl alcohol.

***Alcohol concentration (or content)*** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this subpart.

***Alcohol use*** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

***Confirmation test*** means a second test, following a screening test with a result 0.02 or greater, that provides quantitative data of alcohol concentration.

***Consortium*** means an entity, including a group or association of employers, recipients, or contractors, that provides alcohol testing as required by this subpart or other DOT alcohol testing rules and that acts on behalf of the operators.

***Covered employee*** means a person who performs on a pipeline or at an LNG facility an operation, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter. Covered employee and individual or individual to be tested have the same meaning for the purposes of this subpart. The term covered employee does not include clerical, truck driving, accounting, or other functions not subject to parts 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

***Covered function (safety-sensitive function)*** means an operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by part 192, 193, or 195.

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**DOT agency** means an agency (or operating administration) of the United States Department of Transportation administering regulations requiring alcohol testing (14 CFR part 61, 63, 65, 121, 135; 49 CFR parts 199, 219, 382, and 654) in accordance with part 40 of this title.

**Employer or operator** means a person who owns or operates a pipeline or LNG facility subject to part 192, 193, or 195 of this chapter.

**Performing (a covered function):** An employee is considered to be performing a covered function (safety-sensitive function) during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.

**Refuse to submit (to an alcohol test)** means that a covered employee fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement to be tested in accordance with the provisions of this subpart, or engages in conduct that clearly obstructs the testing process.

**Screening test** means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his or her system.

**State agency** means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

**Substance abuse professional** [Removed]

[Amdt. 199-13, 61 FR 18512, Apr. 26, 1996;  
Amdt. 199-14, 61 FR 37222, July 17, 1996]

#### **§199.207 Preemption of State and local laws.**

(a) Except as provided in paragraph (b) of this section, this subpart preempts any State or local law, rule, regulation, or order to the extent that:

(1) Compliance with both the State or local requirement and this subpart is not possible;

(2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this subpart; or

(3) The State or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.

(b) This subpart shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

#### **§199.209 Other requirements imposed by operators.**

Except as expressly provided in this subpart, nothing in this subpart shall be construed to affect the authority of operators, or the rights of employees, with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation.

#### **§199.211 Requirement for notice.**

Before performing an alcohol test under this subpart, each operator shall notify a covered employee that the alcohol test is required by this subpart. No operator shall falsely represent that a test is administered under this subpart.

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**§199.213 Starting date for alcohol testing programs.**

(a) *Large operators.* Each operator with more 50 covered employees on February 15, 1994, shall implement the requirements of this subpart beginning on January 1, 1995.

(b) *Small operators.* Each operator with 50 or fewer covered employees on February 15, 1994 shall implement the requirements of this subpart beginning on January 1, 1996.

(c) All operators commencing operations after February 15, 1994 shall have an alcohol misuse program that conforms to this subpart by January 1, 1996, or by the date an operator begins operations, whichever is later.

**§199.215 Alcohol concentration.**

Each operator shall prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. No operator having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform covered functions.

**§199.217 On-duty use.**

Each operator shall prohibit a covered employee from using alcohol while performing covered functions. No operator having actual knowledge that a covered employee is using alcohol while performing covered functions shall permit the employee to perform or continue to perform covered functions.

**§199.219 Pre-duty use.**

Each operator shall prohibit a covered employee from using alcohol within 4 hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. No operator having actual knowledge that a covered employee has used alcohol within 4 hours prior to performing covered functions or within the time period after the employee has been notified to report for duty shall permit that covered employee to perform or continue to perform covered functions.

**§199.221 Use following an accident.**

Each operator shall prohibit a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under §199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident.

**§199.223 Refusal to submit to a required alcohol test.**

Each operator shall require a covered employee to submit to a post-accident alcohol test required under §199.225(a), a reasonable suspicion alcohol test required under §199.225(b), or a follow-up alcohol test required under §199.225(d). No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.

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**§199.225 Alcohol tests required.**

Each operator shall conduct the following types of alcohol tests for the presence of alcohol:

(a) *Post-accident.*

(1) As soon as practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section shall be based on the operator's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident.

(i) If a test required by this section is not administered within two hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by paragraph (a) is not administered within eight hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(ii) For the years stated in this paragraph, employers who submit MIS reports shall submit to RSPA each record of a test required by this section that is not completed within 8 hours. The employer's records of tests that could not be completed within 8 hours shall be submitted to RSPA by March 15, 1996; March 15, 1997; and March 15, 1998; for calendar years 1995, 1996, and 1997, respectively. Employers shall append these records to their MIS submissions. Each record shall include the following information:

(A) Type of test (reasonable suspicion/post-accident);

(B) Triggering event (including date, time, and location);

(C) Employee category (do not include employee name or other identifying information);

(D) Reason(s) test could not be completed within 8 hours; and,

(E) If blood alcohol testing could have been completed within eight hours, the name, address, and telephone number of the testing site where blood testing could have occurred.

(3) A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the operator or operator representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the operator to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

(b) *Reasonable suspicion testing.*

(1) Each operator shall require a covered employee to submit to an alcohol test when the operator has reasonable suspicion to believe that the employee has violated the prohibitions in this subpart.

(2) The operator's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

(3) Alcohol testing is authorized by this section only if the observations required by paragraph (b)(2) of this section are made

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during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this subpart. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions.

(4)(i) If a test required by this section is not administered within 2 hours following the determination under paragraph (b)(2) of this section, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within 8 hours following the determination under paragraph (b)(2) of this section, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to RSPA upon request of the Administrator.

(ii) For the years stated in this paragraph, employers who submit MIS reports shall submit to RSPA each record of a test required by this section that is not completed within 8 hours. The employer's records of tests that could not be completed within 8 hours shall be submitted to RSPA by March 15, 1996; March 15, 1997; and March 15, 1998; for calendar years 1995, 1996, and 1997, respectively. Employers shall append these records to their MIS submissions. Each record shall include the following information:

(A) Type of test (reasonable suspicion/post-accident);

(B) Triggering event (including date, time, and location);

(C) Employee category (do *not* include employee name or other identifying information);

(D) Reason(s) test could not be completed within 8 hours; and,

(E) If blood alcohol testing could have been completed within eight hours, the name, address, and telephone number of the testing site where blood testing could have occurred.

(iii) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, an operator shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an operator permit the covered employee to perform or continue to perform covered functions, until:

(A) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

(B) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination under paragraph (b)(2) of this section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this subpart.

(iv) Except as provided in paragraph (b)(4)(ii), no operator shall take any action under this subpart against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an operator with the authority independent of this subpart from taking any action otherwise consistent with law.

(c) *Return-to-duty testing.* Each operator shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§199.215 through 199.223, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

(d) *Follow-up testing.*

(1) Following a determination under §199.243(b) that a covered employee is in need

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of assistance in resolving problems associated with alcohol misuse, each operator shall ensure that the employee is subject to unannounced follow-up alcohol testing as directed by a substance abuse professional in accordance with the provisions of §199.243(c)(2)(ii).

(2) Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.

(e) *Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.* Each operator shall retest a covered employee to ensure compliance with the provisions of §199.237, if an operator chooses to permit the employee to perform a covered function within 8 hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

[Amdt. 199-10, 59 FR 62246, Dec. 2, 1994;  
Amdt. 199-12, 59 FR 62239, Dec. 2, 1994]

#### **§199.227 Retention of records.**

(a) *General requirement.* Each operator shall maintain records of its alcohol misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) *Period of retention.* Each operator shall maintain the records in accordance with the following schedule:

(1) *Five years.* Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of 5 years.

(2) *Two years.* Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of 2 years.

(3) *One year.* Records of all test results below 0.02 (as defined in 49 CFR Part 40) shall be maintained for a minimum of 1 year.

(c) *Types of records.* The following specific records shall be maintained:

(1) Records related to the collection process:

(i) Collection, if used.

(ii) Calibration documentation for evidential breath testing devices.

(iii) Documentation of breath alcohol technician training.

(iv) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.

(v) Documents generated in connection with decisions on post-accident tests.

(vi) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.

(2) Records related to test results:

(i) The operator's copy of the alcohol test form, including the results of the test.

(ii) Documents related to the refusal of any covered employee to submit to an alcohol test required by this subpart.

(iii) Documents presented by a covered employee to dispute the result of an alcohol test administered under this subpart.

(3) Records related to other violations of this subpart.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.

(ii) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.



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(5) Record(s) related to the operator's MIS annual testing data.

(6) Records related to education and training:

(i) Materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse.

(ii) Documentation of compliance with the requirements of §199.231.

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this subpart complies with the requirements for such training.

**§199.229 Reporting of alcohol testing results.**

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to RSPA of its alcohol testing results in the form and manner prescribed by the Administrator, by March 15 of each year for the previous calendar year (January 1 through December 31). The Administrator may require by written notice that a small operator (50 or fewer covered employees), not otherwise required to submit annual MIS reports, submit such a report to RSPA.

(b) Each operator that is subject to more than one DOT agency alcohol rule shall identify each employee covered by the regulations of more than one DOT agency. The identification will be by the total number of covered employees. Prior to conducting any alcohol test on a covered employee subject to the rules of more than one DOT agency, the employer shall determine which DOT agency rule or rules authorizes or requires the test. The test result information shall be directed to the appropriate DOT agency or agencies.

(c) Each report, required under this section, shall be submitted to the Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, room 2335, 400 Seventh Street, SW., Washington, DC 20590. RSPA will allow the operator the option of sending the report on the computer disk provided by RSPA. If this option is used, a signature page attesting to the validity of the information on the computer disk must be sent to the address in this section.

(d) Each report that contains information on an alcohol screening test result of 0.02 or greater or a violation of the alcohol misuse provisions of §§199.215 through 199.223 of this subpart shall be submitted on "RSPA Alcohol Testing MIS Data Collection Form" and include the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the alcohol misuse rule of another operating administration by each agency.

(3)(i) Number of screening tests by type of test.

(ii) Number of confirmation tests by type of test.

(4) Number of confirmation tests indicating an alcohol concentration of 0.02 or greater but less than 0.04, by type of test.

(5) Number of confirmation tests indicating an alcohol concentration of 0.04 or greater, by type of test.

(6) Number of covered employees with a confirmation test indicating an alcohol concentration of 0.04 or greater or who have violations of other alcohol misuse provisions who were returned to duty in covered positions (having complied with the recommendations of a substance abuse professional as described in §§199.235 and 199.243).

(7) Number of covered employees who were administered alcohol and drug tests at the same time, with both a positive drug test and

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an alcohol test indicating an alcohol concentration of 0.04 or greater.

(8) Number of covered employees who were found to have violated other provisions of §§199.215 through 199.221, and any action taken in response to the violation.

(9) Number of covered employees who refused to submit to an alcohol test required under this subpart, and the action taken in response to the refusal.

(10) Number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.

(e) Each report with no screening alcohol test results of 0.02, or greater or violations of the alcohol misuse provisions of §§199.215 through 199.223 of this subpart shall be submitted on "RSPA Alcohol Testing MIS Data Collection EZ Form" and include the following informational elements, (this "EZ" report may only be submitted if the program results meet these criteria):

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the alcohol misuse rule of another operating administration identified by each agency.

(3) Number of screening tests by type of test.

(4) Number of covered employees who refused to submit to an alcohol test required under this subpart, and the action taken in response to the refusal.

(5) Number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.

(f) A consortium may prepare reports on behalf of individual pipeline operators for purposes of compliance with this reporting requirement. However, the pipeline operator shall sign and submit such a report and shall remain responsible for ensuring the accuracy

and timeliness of each report prepared on its behalf by a consortium.

[Amdt. 199-15, 61 FR 65364, Dec. 12, 1996]

**§199.231 Access to facilities and records.**

(a) Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained in §199.227.

(b) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to a employee's records shall not be contingent upon payment for records other than those specifically requested.

(c) Each operator shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation, any DOT agency, or a representative of a state agency with regulatory authority over the operator.

(d) Each operator shall make available copies of all results for employer alcohol testing conducted under this subpart and any other information pertaining to the operator's alcohol misuse prevention program, when requested by the Secretary of Transportation, any DOT agency with regulatory authority over the operator, or a representative of a state agency with regulatory authority over the operator. The information shall include name-specific alcohol test results, records, and reports.

(e) When requested by the National Transportation Safety Board as part of an accident investigation, an operator shall disclose information related to the operator's administration of any post-accident alcohol

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tests administered following the accident under investigation.

(f) An operator shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.

(g) An operator may disclose information required to be maintained under this subpart pertaining to a covered employee to the employee or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol test administered under this subpart, or from the operator's determination that the covered employee engaged in conduct prohibited by §§199.215 through 199.223 (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

(h) An operator shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

**§199.233 Removal from covered function.**

Except as provided in §§199.239 through 199.243, no operator shall permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by §§199.215 through 199.223 or an alcohol misuse rule of another DOT agency.

**§199.235 Required evaluation and testing.**

No operator shall permit a covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 to perform covered functions unless the employee has met the requirements of §199.243.

**§199.237 Other alcohol-related conduct.**

(a) No operator shall permit a covered employee tested under the provisions of §199.225, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until:

(1) The employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e); or

(2) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, no operator shall take any action under this subpart against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an operator with authority independent of this subpart from taking any action otherwise consistent with law.

**§199.239 Operator obligation to promulgate a policy on the misuse of alcohol.**

(a) *General requirements.* Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.

(1) The operator shall ensure that a copy of these materials is distributed to each covered

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employee prior to start of alcohol testing under this subpart, and to each person subsequently hired for or transferred to a covered position.

(2) Each operator shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to covered employees shall include detailed discussion of at least the following:

(1) The identity of the person designated by the operator to answer covered employee questions about the materials.

(2) The categories of employees who are subject to the provisions of this subpart.

(3) Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this subpart.

(4) Specific information concerning covered employee conduct that is prohibited by this subpart.

(5) The circumstances under which a covered employee will be tested for alcohol under this subpart.

(6) The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.

(7) The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart.

(8) An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.

(9) The consequences for covered employees found to have violated the prohibitions under this subpart, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243.

(10) The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

(11) Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

(c) *Optional provisions.* The materials supplied to covered employees may also include information on additional operator policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the operator's authority independent of this subpart. Any such additional policies or consequences shall be clearly described as being based on independent authority.

### **§199.241 Training for supervisors.**

Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

### **§199.243 Referral, evaluation, and treatment.**

(a) Each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 of this subpart shall be advised of the resources available to the

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covered employee in evaluating and resolving problems associated with the misuse of alcohol. This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

(b) Each covered employee who engages in conduct prohibited under §§199.215 through 199.223 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.

(c)(1) Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§199.215 through 199.223 of this subpart, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

(2) In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse—

(i) Shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under paragraph (b) of this section, and

(ii) Shall be subject to unannounced follow-up alcohol tests administered by the operator following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse

professional determines that such testing is no longer necessary.

(d) Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

(e) The operator shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring an employee for assistance provided through—

(1) A public agency, such as a State, county, or municipality;

(2) The operator or a person under contract to provide treatment for alcohol problems on behalf of the operator;

(3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or

(4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

**§199.245 Contractor employees.**

(a) With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this subpart be carried out by the contractor provided:

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(b) The operator remains responsible for ensuring that the requirements of this subpart and part 40 of this title are complied with; and

(c) The contractor allows access to property and records by the operator, the Administrator, any DOT agency with regulatory authority over the operator or covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of this subpart and part 40 of this title.

[Amdt. 199-9, 59 FR 7430, Feb. 15, 1994]

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**DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA  
COLLECTION FORM**

**INSTRUCTIONS**

The following instructions are to be used as a guide for completing the drug testing information in the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) **Drug Testing MIS Data Collection Form**. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages iv – vi as an example to facilitate the process of completing the form correctly.

This reporting form includes three sections. Collectively, these sections address the data elements required in the RSPA and the DOT drug testing regulations. The three sections, the page number for the instructions, and the page location on the reporting form are:

<u>Section</u>	Instructions <u>Page(s)</u>	Reporting Form <u>Page</u>
A. PIPELINE EMPLOYER INFORMATION	i	1
B. COVERED EMPLOYEES	i	2
C. DRUG TESTING INFORMATION	ii – vi	3

**Page 1**      **PIPELINE EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the **primary** nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required certifying the correctness and completeness of the form.

**Page 2**      **COVERED EMPLOYEES** (Section B) requires a count for each employee category that must be tested under RSPA regulations. Covered functions for RSPA are: Operation, Maintenance, and Emergency Response. The most likely source for this information is the employer's personnel department. This count should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION**, requires that you identify the

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number of employees in each employee category under the appropriate additional operating administration(s).

**Page 3**

**DRUG TESTING INFORMATION** (Section C) requires information for drug testing by category of testing. These categories include: (1) pre-employment, (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return-to-duty, and (6) follow-up testing. All numbers entered into this table should be for applicants or company employees in a covered position only. Each part of this table must be completed for each category of testing. These numbers **do not** include refusals for testing. A sample section of the table with example numbers is presented on page v.

Section C is used to summarize the drug testing results for applicants and covered employees. There are six categories of testing to be completed. The first part of the table is where you enter the data on pre-employment testing. The following five parts are for entering drug testing data on random, post-accident, reasonable suspicion/cause, return to duty, and follow-up testing, respectively. Items necessary to complete these tables include:

- 1) the number of specimens collected in each testing category;
- 2) the number of specimens tested which were verified negative and verified positive for any drug(s); and
- 3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the tables.

A sample table with detailed instructions is provided for the first part, **PRE-EMPLOYMENT TESTING INFORMATION**. The format and explanations used for the sample table apply to all six parts of the table in Section C.

Information on actions taken with those person testing positive is required at the end of Section C. Specific instructions for providing this latter information are given after the instructions for completing the table in Section C.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "**NUMBER OF SPECIMENS COLLECTED**," requires a count for all collected specimens. It should not include refusals to test.

The second blank column with the heading "**NUMBER OF SPECIMENS VERIFIED NEGATIVE**," requires a count for all completed tests that were verified negative by your Medical Review Officer (MRO).



**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

The third blank column with the heading "**NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS,**" refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "**NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG,**" requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

A sample table is provided on page v with example numbers.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**SAMPLE APPLICANT TEST RESULTS TABLE**

---

The following example is for Section C, **DRUG TESTING INFORMATION**, which summarizes pre-employment testing results. The procedures detailed here also apply to the other categories of testing in Section C which require you to summarize testing results for employees. This example will use "Pre-Employment" testing to illustrate the procedures for completing the form.

**A** Urine specimens were collected for 157 job applicants for covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "**PRE-EMPLOYMENT**".

**B** The Medical Review Officer (MRO) for your company reported that 153 of those 157 specimens from applicants for covered positions were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "**PRE-EMPLOYMENT**".

**C** The MRO for your company reported that 4 of those 157 specimens from applicants for covered positions were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "**PRE-EMPLOYMENT**".

**D** With the 4 specimens that tested positive, the following drugs were detected:

<u>Specimen</u>	<u>Drugs</u>
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Since two different drugs were detected in specimen #3 (multi-drug), entries are made in both the marijuana and the cocaine columns for this specimen. Information on multi-drug specimens must also be entered in the table, **SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG**.

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DRUG AND ALCOHOL TESTING**

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE 5 DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
Pre-Employment	157	153	4	3	1	0	0	1

A

B

C

D

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

**Remember that the same procedures indicated above are to be used for completing all categories of testing in the table in Section C.**

**Page 3** Below the table for **DRUG TESTING INFORMATION** is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.

**Page 3** Also following the table that summarizes **DRUG TESTING INFORMATION**, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule. This information should be available from the personnel office and/or drug program manager.

**Page 3** Next, you must provide information on **ACTIONS TAKEN ON VERIFIED POSITIVE TEST RESULTS**. Indicate the number of employees subjected to the following actions:

- **No longer employed with company** – include covered employees who resigned or were terminated as the result of a positive drug test.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

- **Reassigned to non-covered functions** – include covered employees who were reassigned within the company to a non-covered position as the result of a positive drug test.
- **Entered rehabilitation, if applicable, and/or returned to covered functions** – include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- **Other** – include covered employees who did not fall under one of the previous options and specify the action taken.

Enter the sum of the number of actions taken on the line marked **TOTAL**

**Page 3**      **SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG** requires information on specimens that contained more than one drug. First, indicate the **NUMBER OF VERIFIED POSITIVES**. Then specify the combination of drugs reported as positive by placing the number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 specimens, then you would write "3" as the number of verified positives and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 specimens, then you would write "2" as the number of verified positives and "2" in the columns for "Marijuana" and "Opiates".

**Page 4**      **EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST** requires information on the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a **random or other** (pre-employment, post-accident, reasonable suspicion/cause, return-to-duty, or follow-up) drug test required under the RSPA regulation and the **ACTIONS TAKEN** following the refusal. Indicate the number of actions taken on the appropriate line.

**Page 4**      **DRUG TRAINING/EDUCATION** requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

OMB NO. 2137-0579

**RSPA Drug Testing MIS Data Collection Form**

**A. PIPELINE EMPLOYER INFORMATION**

Company\_\_\_\_\_ Year Covered by This Report\_\_\_\_\_

Address\_\_\_\_\_ Person responsible for completing the form:  
\_\_\_\_\_

Check the one box that indicates the primary nature of your operation.

- |   |  |
|---|--|
| <input type="checkbox"/> Gas gathering    | <input type="checkbox"/> Transportation of hazardous liquids |
| <input type="checkbox"/> Gas transmission | <input type="checkbox"/> Transportation of carbon dioxide    |
| <input type="checkbox"/> Gas distribution |  |

I, the undersigned certify that the information provided on this Research and Special Programs Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Research and Special Programs Administration estimate that the average burden for this report form is 3.1 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Pipeline Safety, RSPA, DOT ; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2137-0579); Washington, DC 20503.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**B. COVERED EMPLOYEES**

<b>COVERED EMPLOYEES</b>						
		Number of Employees Covered By More Than One DOT Operating Administration				
<b>Employee Category</b>	<b>Number of RSPA Covered Employees</b>	<b>FAA</b>	<b>FHWA</b>	<b>FRA</b>	<b>FTA</b>	<b>USCG</b>
Operation/Maintenance/ Emergency Response						

**READ BEFORE COMPLETING THE REMAINDER OF THIS FORM**

1. All items refer to the **current** reporting period **only** (e.g., January 1, 1995 – December 31, 1995).
2. This report is only for testing **REQUIRED BY THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (RSPA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT)**:
  - Results should be reported only for employees in **COVERED POSITIONS** as defined by the RSPA/DOT drug testing regulations.
  - The information requested should only include testing for marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40.
3. Information on refusals for testing should only be reported in the table: **COVERED EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST**. Do not include refusals for testing in other sections of this report
4. Do not include the results of any quality control (QC) samples submitted to the testing laboratory in any of the tables.
5. Complete all items; **DO NOT LEAVE ANY ITEM BLANK**. If the value for an item is zero (0), place a zero (0) on the form.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**C. DRUG TESTING INFORMATION**

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE 5 DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
Pre-Employment								
Random								
Post-Accident								
Reasonable Suspicion/ Cause								
Return-To-Duty								
Follow-Up								
Number of persons denied a position as a covered employee following a verified positive drug test:								
Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule:								
<b>ACTION TAKEN ON VERIFIED POSITIVE TEST RESULTS</b>								
								<b>NUMBER</b>
No longer employed with company:								
Reassigned to non-covered functions:								
Entered rehabilitation, if applicable, and/or returned to covered functions:								
Other (specify):								
<b>TOTAL:</b>								
<b>SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG</b>								
NUMBER OF VERIFIED POSITIVES	MARIJUANA (THC)	COCAINE	PHENCYCLIDINE (PCP)	OPIATES	AMPHETAMINES			

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

<b>COVERED EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST</b>		
	<b>NUMBER OF REFUSALS</b>	
	<b>RANDOM TESTS</b>	<b>OTHER TESTS</b>
Number of employees who refused to submit to a drug test required under the RSPA rule.		
<b>ACTION TAKEN</b>		<b>NUMBER</b>
No longer employed with company:		
Reassigned to non-covered functions:		
Entered rehabilitation, if applicable, and/or returned to covered functions:		
Other (specify):		
<b>DRUG TRAINING/EDUCATION</b>		<b>NUMBER</b>
Supervisors who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by RSPA drug testing regulations:		



**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS)  
"EZ" DATA COLLECTION FORM**

**INSTRUCTIONS**

The following instructions are to be used as a guide for completing the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) **Drug Testing MIS "EZ" Data Collection Form**. This form should only be used if there are **no positive tests** to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes three sections. These sections address the data elements required in the RSPA and DOT drug testing regulations.

**SECTION A – PIPELINE EMPLOYER INFORMATION** requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the **primary** nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required certifying the correctness and completeness of the form.

**SECTION B – COVERED EMPLOYEES** requires a count for each employee category that must be tested under the RSPA regulation. There is only one category of covered employees for RSPA – Operation/Maintenance/Emergency Response. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION**, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

**SECTION C – DRUG TESTING INFORMATION** requires information for drug testing and training. The first table requests information on the **NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE** in each category for testing. All numbers entered into this table should be for applicants or company employees in **covered positions** only. Each part of this table must be completed for each category of testing including: (1) pre-employment, (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return-to-duty, and (6) follow-up testing. These numbers **do not** include refusals for testing. **"COLL"** requires the number of specimens collected in each employee category for each category of testing. **"NEG"** requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO). Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the categories.

## **PART 199 – PIPELINE SAFETY REGULATIONS DRUG AND ALCOHOL TESTING**

Following the table that summarizes **DRUG TESTING INFORMATION**, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule. This information should be available from the personnel office and/or drug program manager.

**EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST** requires information on the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a random or other (pre-employment, post-accident, reasonable suspicion/cause, return to duty, or follow-up) drug test required under the RSPA regulation and the **ACTION TAKEN** following the refusal. Indicate the number of employees subjected to the following actions:

- **No longer employed with company** – include covered employees who resigned or were terminated as the result of a refusal to submit to a drug test.
- **Reassigned to non-covered functions** – include covered employees who were reassigned within the company to a non-covered position as the result of a refusal to submit to a drug test.
- **Entered rehabilitation, if applicable, and/or returned to covered functions** – include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- **Other** – include covered employees who did not fall under one of the previous options and specify the action taken.

**DRUG TRAINING/EDUCATION** requires information on the number of supervisory personnel who have received the required training during the current reporting period.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

OMB NO. 2137-0579

**RSPA Drug Testing MIS "EZ" Data Collection Form**

**A. PIPELINE EMPLOYER INFORMATION**

Company\_\_\_\_\_ Year Covered by This Report\_\_\_\_\_

Address\_\_\_\_\_ Person responsible for completing the form:  
\_\_\_\_\_

Check the one box that indicates the primary nature of your operation.

- |   |  |
|---|--|
| <input type="checkbox"/> Gas gathering    | <input type="checkbox"/> Transportation of hazardous liquids |
| <input type="checkbox"/> Gas transmission | <input type="checkbox"/> Transportation of carbon dioxide    |
| <input type="checkbox"/> Gas distribution |  |

I, the undersigned certify that the information provided on this Research and Special Programs Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Research and Special Programs Administration estimate that the average burden for this report form is 3.1 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Pipeline Safety, RSPA, DOT ; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2137-0579); Washington, DC 20503.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**B. COVERED EMPLOYEES**

<b>COVERED EMPLOYEES</b>						
		Number of Employees Covered By More Than One DOT Operating Administration				
<b>Employee Category</b>	Number of RSPA Covered Employees	FAA	FHWA	FRA	FTA	USCG
Operation/Maintenance/ Emergency Response						

**C. DRUG TESTING INFORMATION**

<b>NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE</b>												
	Pre- Employment		Random		Post-Accident		Reasonable Suspicion/ Cause		Return-To- Duty		Follow-Up	
<b>Employee Category</b>	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG
Operation/ Maintenance/ Emergency Response												

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule:	
--	--

<b>EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST</b>		
		<b>NUMBER OF REFUSALS</b>
		RANDOM TESTS
		OTHER TESTS
Number of employees who refused to submit to a drug test required under the RSPA rule:		
<b>ACTION TAKEN</b>		<b>NUMBER</b>
No longer employed with company:		
Reassigned to non-covered functions:		
Entered rehabilitation, if applicable, and/or returned to covered functions:		
Other (specify):		
<b>DRUG TRAINING/EDUCATION</b>		<b>NUMBER</b>
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by RSPA drug testing regulations:		

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM (MIS)  
DATA COLLECTION FORM**

**INSTRUCTIONS**

The following instructions are to be used as a guide for completing the alcohol testing information in the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) **Alcohol Testing MIS Data Collection Form**. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages iii – v as an example to facilitate the process of completing the form correctly.

This reporting form includes three sections. Collectively, these sections address the data elements required in the RSPA and the DOT alcohol testing regulations. The three sections, the page number for the instructions, and the page location on the reporting form are:

<u>Section</u>	<u>Instructions Page(s)</u>	<u>Reporting Form Page</u>
A. PIPELINE EMPLOYER INFORMATION	i	1
B. COVERED EMPLOYEES	i	2
C. ALCOHOL TESTING INFORMATION	ii – v	3

**Page 1**      **EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the **primary** nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required to certifying the correctness and completeness of the form.

**Page 2**      **COVERED EMPLOYEES** (Section B) requires a count for each employee category that must be tested under DOT regulations. There is only one category of covered employees for RSPA - Operation/Maintenance/Emergency Response. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the alcohol rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN**

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**ONE DOT OPERATING ADMINISTRATION**, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

**Page 3**

**ALCOHOL TESTING INFORMATION** (Section C) requires information for alcohol testing by category of testing. These categories include: (1) post-accident, (2) reasonable suspicion, (3) return-to-duty, and (4) follow-up testing. All numbers entered into this table should be for company employees in a **covered position** only. Each part of this table must be completed for each category of testing.

These numbers **do not** include refusals for testing. A sample section of the table with example numbers is presented on page iii.

Four types of information are necessary to complete this table. The first blank column with the heading "**NUMBER OF SCREENING TESTS**" requires a count of all screening alcohol tests performed. It should not include refusals to test.

The second blank column with the heading "**NUMBER OF CONFIRMATION TESTS**" requires a count of all confirmation alcohol tests performed.

The third blank column with the heading "**NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.02, BUT LESS THAN 0.04**" refers to the number of test results equal to or greater than 0.02, but less than 0.04.

The fourth blank column with the heading "**NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.04**" refers to the number of specimens with a result equal to or greater than 0.04. **Note: For return-to-duty testing, a confirmation test result equal to or greater than 0.02 is a violation of the alcohol rule. Therefore, if the number of results equal to or greater than 0.04 is unknown, you may report all results in the third column of the table.**

A sample table is provided on page iii with example numbers.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING  
SAMPLE TEST RESULTS TABLE**

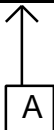
The following example is for Section C, **ALCOHOL TESTING INFORMATION**, which summarizes post-accident testing results. The procedures detailed here also apply to the other categories for testing in Section C which require you to summarize testing results for covered employees. This example will use "Post-Accident" testing to illustrate the procedures for completing the form.

- A** Screening tests were performed on 47 covered employees during the reporting year. This information is entered in the first blank column of the table in the row marked **"POST-ACCIDENT"**.
- B** Confirmation tests were necessary for 6 of the 47 covered employees. Enter this information in the second blank column of the table in the row marked **"POST-ACCIDENT"**. The confirmation test results for these 6 employees were the following

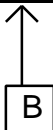
<u>Employee</u>	<u>Confirmation Result</u>
#1	0.06
#2	0.01
#3	0.11
#4	0.04
#5	0.03
#6	0.02

- C** The confirmation test results for 2 of the covered employees were equal to or greater than 0.02, but less than 0.04. Enter this information in the third blank column of the table in the row marked **"POST-ACCIDENT"**.
- D** The confirmation test results for 3 of the covered employees were equal to or greater than 0.04. Enter this information in the fourth blank column of the table in the row marked **"POST-ACCIDENT"**.


<b>TYPE OF TEST</b>	<b>NUMBER OF SCREENING TESTS</b>	<b>NUMBER OF CONFIRMATION TESTS</b>	<b>NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.02, BUT LESS THAN 0.04</b>	<b>NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.04</b>
Post-Accident	47	6	2	3




**A**



**B**



**C**



**D**

## **PART 199 – PIPELINE SAFETY REGULATIONS DRUG AND ALCOHOL TESTING**

Note that adding up the numbers for confirmation results in columns three and four will not always match the number entered in the second column, "NUMBER OF CONFIRMATION TESTS". These numbers may differ since some confirmation test results may be less than 0.02.

**Remember that the same procedures indicated above are to be used for completing all of the categories for testing in Section C.**

**Page 3** Following the table that summarizes **ALCOHOL TESTING INFORMATION**, you must provide a count of the **"Number of employees who engaged in alcohol misuse who were returned to duty in a covered position (having complied with the recommendations of a substance abuse professional as described in RSPA regulations)"**. This information should be available from the personnel office and/or the drug and alcohol program manager.

**Page 3** Next you must provide information on **ACTIONS TAKEN ON ALCOHOL TEST RESULTS EQUAL TO OR GREATER THAN 0.04**. Indicate the number of employees subjected to the following actions:

- **No longer employed with company** – include covered employees who resigned or were terminated as the result of a confirmation test result equal to or greater than 0.04.
- **Reassigned to non-covered functions** – include covered employees who were reassigned within the company to a non-covered position as the result of a confirmation test result equal to or greater than 0.04.
- **Entered rehabilitation, if applicable, and/or returned to covered functions** – include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- **Other** – include covered employees who did not fall under one of the previous options and specify the action taken.

Enter the sum of the number of actions taken on the line marked **TOTAL**.

**Page 3** **Number of employees administered drug and alcohol tests at the same time resulting in a verified positive drug test and an alcohol test indicating an alcohol concentration of 0.04 or greater**, requires that a count of all such employees be entered in the indicated box.

**Page 3** **VIOLATIONS OF OTHER ALCOHOL PROVISIONS/PROHIBITIONS OF THIS REGULATION**, requires supplying the number of covered employees who used alcohol prior to performing a safety-sensitive function, while performing a safety-sensitive function, and before taking a required post-accident alcohol test.



**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

The action taken with covered employees who violate any of these RSPA alcohol regulation provisions is also to be supplied. Other violations not delineated in this table may also be provided.

**Page 4**      **EMPLOYEES WHO REFUSED TO SUBMIT TO AN ALCOHOL TEST** requires information on the **NUMBER OF COVERED EMPLOYEES** who refused to submit to an alcohol test required under the RSPA regulation and the **ACTION TAKEN** following the refusal.

**Page 4**      **ALCOHOL TRAINING/EDUCATION** requires information on the number of supervisory personnel who have received the required alcohol training during the current reporting period.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

OMB NO. 2137-0579

**RSPA Alcohol Testing MIS Data Collection Form**

**A. PIPELINE EMPLOYER INFORMATION**

Company\_\_\_\_\_ Year Covered by This Report\_\_\_\_\_

Address\_\_\_\_\_ Person responsible for completing the form:  
\_\_\_\_\_

Check the one box that indicates the primary nature of your operation.

- |   |  |
|---|--|
| <input type="checkbox"/> Gas gathering    | <input type="checkbox"/> Transportation of hazardous liquids |
| <input type="checkbox"/> Gas transmission | <input type="checkbox"/> Transportation of carbon dioxide    |
| <input type="checkbox"/> Gas distribution |  |

I, the undersigned certify that the information provided on this Research and Special Programs Administration Alcohol Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Research and Special Programs Administration estimate that the average burden for this report form is 3.1 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Pipeline Safety, RSPA, DOT; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2137-0579); Washington, DC 20503.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**B. COVERED EMPLOYEES**

<b>COVERED EMPLOYEES</b>						
		Number of Employees Covered By More Than One DOT Operating Administration				
<b>Employee Category</b>	<b>Number of RSPA Covered Employees</b>	<b>FAA</b>	<b>FHWA</b>	<b>FRA</b>	<b>FTA</b>	<b>USCG</b>
Operation/Maintenance/ Emergency Response						

**READ BEFORE COMPLETING THE REMAINDER OF THIS FORM**

1. All items refer to the ***current*** reporting period ***only*** (e.g., January 1, 1995 – December 31, 1995).
2. This report is only for testing **REQUIRED BY THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (RSPA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT)**:
  - Results should be reported only for employees in **COVERED POSITIONS** as defined by the RSPA/DOT alcohol testing regulations.
  - The information requested should only include testing for alcohol using the standard procedures required by DOT regulation 49 CFR Part 40.
3. Information on refusals for testing should only be reported in the Table: **EMPLOYEES WHO REFUSED TO SUBMIT TO AN ALCOHOL TEST**. Do not include refusals for testing in other sections of this report.
4. Complete all items; **DO NOT LEAVE ANY ITEM BLANK**. If the value for an item is zero (0), place a zero (0) on the form.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**C. ALCOHOL TESTING INFORMATION**

TYPE OF TEST	NUMBER OF SCREENING TESTS	NUMBER OF CONFIRMATION TESTS	NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.02, BUT LESS THAN 0.04	NUMBER OF CONFIRMATION TEST RESULTS EQUAL TO OR GREATER THAN 0.04
Post-Accident				
Reasonable Suspicion				
Return-To-Duty				
Follow-Up				
Number of employees who engaged in alcohol misuse who were returned to duty in a covered position (having complied with the recommendations of a substance abuse professional as described in RSPA regulations).				
<b>ACTIONS TAKEN ON ALCOHOL TEST RESULTS EQUAL TO OR GREATER THAN 0.04</b>				<b>NUMBER</b>
No longer employed with company:				
Reassigned to non-covered functions:				
Entered rehabilitation, if applicable, and/or returned to covered functions:				
Other (specify):				
<b>TOTAL:</b>				
Number of employees administered drug <u>and</u> alcohol tests at the same time resulting in a verified positive drug test <u>and</u> an alcohol test indicating an alcohol concentration of 0.04 or greater:				
<b>VIOLATIONS OF OTHER ALCOHOL PROVISIONS/PROHIBITIONS OF THIS REGULATION</b>				
<b>Number of Covered Employees</b>	<b>Violation</b>	<b>Action Taken</b>		
	Covered employee used alcohol while performing safety-sensitive function.			
	Covered employee used alcohol within 4 hours of performing safety-sensitive function.			
	Covered employee used alcohol before taking a required post-accident alcohol test.			

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<b>EMPLOYEES WHO REFUSED TO SUBMIT TO AN ALCOHOL TEST</b>	<b>NUMBER OF REFUSALS</b>
Number of employees who refused to submit to an alcohol test required under the RSPA rule.	
<b>ACTION TAKEN</b>	<b>NUMBER</b>
No longer employed with company:	
Reassigned to non-covered functions:	
Entered rehabilitation, if applicable, and/or returned to covered functions:	
Other (specify):	
<b>ALCOHOL TRAINING/EDUCATION</b>	<b>NUMBER</b>
<b>Supervisors who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable alcohol use as required by RSPA alcohol testing regulations:</b>	

**PART 199 – PIPELINE SAFETY REGULATIONS  
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**ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM (MIS)  
"EZ" DATA COLLECTION FORM**

**INSTRUCTIONS**

The following instructions are to be used as a guide for completing the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) **Alcohol Testing MIS "EZ" Data Collection Form**. This form should only be used if there is **no alcohol misuse** to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes three sections. These sections address the data elements required in the RSPA and DOT alcohol testing regulations.

**SECTION A – PIPELINE EMPLOYER INFORMATION** requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the **primary** nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required certifying the correctness and completeness of the form.

**SECTION B – COVERED EMPLOYEES** requires a count for each employee category that must be tested under the RSPA regulation. There is only one category of covered employees for RSPA - Operation/Maintenance/Emergency Response. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the alcohol rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION**, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

**SECTION C – ALCOHOL TESTING INFORMATION** requires information for alcohol testing, refusals for testing, and education/training. The first table requests information on the **NUMBER OF SCREENING TESTS CONDUCTED** in each category for testing. All numbers entered into this table should be for applicants or company employees in **covered positions** only. Each part of this table must be completed for each category of testing including: (1) post-accident, (2) reasonable suspicion, (3) return-to-duty, and (4) follow-up testing. These numbers **do not** include refusals for testing. Simply enter the number of alcohol screening tests conducted for each category testing.

Following the table that summarizes **ALCOHOL TESTING INFORMATION**, you must provide the **number of employees who engaged in alcohol misuse who were returned to duty**

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

**in a covered position (having complied with the recommendations of a substance abuse professional as described in the RSPA regulations).** This information should be available from the personnel office and/or alcohol program manager.

**EMPLOYEES WHO REFUSED TO SUBMIT TO AN ALCOHOL TEST** requires information on the **NUMBER OF COVERED EMPLOYEES** who refused to submit to an alcohol test required under the RSPA regulation and the **ACTION TAKEN** following the refusal. Indicate the number of employees subjected to the following actions

- **No longer employed with company** – include covered employees who resigned or were terminated as the result of a refusal to submit to an alcohol test.
- **Reassigned to non-covered functions** – include covered employees who were reassigned within the company to a non-covered position as the result of a refusal to submit to an alcohol test.
- **Entered rehabilitation, if applicable, and/or returned to covered functions** – include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- **Other** – include covered employees who did not fall under one of the previous options and specify the action taken.

**ALCOHOL TRAINING/EDUCATION** requires information on the number of supervisory personnel who have received the required alcohol training during the current reporting period.

**PART 199 – PIPELINE SAFETY REGULATIONS  
DRUG AND ALCOHOL TESTING**

OMB NO. 2137-0579

**RSPA Alcohol Testing MIS “EZ” Data Collection Form  
(No Alcohol Misuse)**

**A. PIPELINE EMPLOYER INFORMATION**

Company\_\_\_\_\_ Year Covered by This Report\_\_\_\_\_

Address\_\_\_\_\_ Person responsible for completing the form:  
\_\_\_\_\_

Check the one box that indicates the primary nature of your operation.

- |   |  |
|---|--|
| <input type="checkbox"/> Gas gathering    | <input type="checkbox"/> Transportation of hazardous liquids |
| <input type="checkbox"/> Gas transmission | <input type="checkbox"/> Transportation of carbon dioxide    |
| <input type="checkbox"/> Gas distribution |  |

I, the undersigned certify that the information provided on this Research and Special Programs Administration Alcohol Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

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DRUG AND ALCOHOL TESTING**

**B. COVERED EMPLOYEES**

<b>COVERED EMPLOYEES</b>						
		Number of Employees Covered By More Than One DOT Operating Administration				
<b>Employee Category</b>	<b>Number of RSPA Covered Employees</b>	<b>FAA</b>	<b>FHWA</b>	<b>FRA</b>	<b>FTA</b>	<b>USCG</b>
Operation/Maintenance/ Emergency Response						

**C. ALCOHOL TESTING INFORMATION**

<b>NUMBER OF SCREENING TESTS CONDUCTED</b>				
<b>Employee Category</b>	<b>Post-Accident</b>	<b>Reasonable Suspicion</b>	<b>Return- to-Duty</b>	<b>Follow-Up</b>
Operation/Maintenance/ Emergency Response				

<b>Number of employees who engaged in alcohol misuse who were returned to duty in a covered position (having complied with the recommendations of a substance abuse professional as described in RSPA regulations):</b>	
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<b>EMPLOYEES WHO REFUSED TO SUBMIT TO AN ALCOHOL TEST</b>	<b>NUMBER OF REFUSALS</b>
Number of employees who refused to submit to an alcohol test required under the RSPA rule.	
<b>ACTION TAKEN</b>	<b>NUMBER</b>
No longer employed with company:	
Reassigned to non-covered functions:	
Entered rehabilitation, if applicable, and/or returned to covered functions:	
Other (specify):	
<b>ALCOHOL TRAINING/EDUCATION</b>	<b>NUMBER</b>
<b>Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable alcohol use as required by RSPA alcohol testing regulations:</b>	